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Legislative
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MEMORANDUM

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July 23, 2010

TO: Interested Persons

FROM: Ron Kirk, Economist, 303-866-4785

SUBJECT: Colorado's Child Care Contribution Credit in Tax Year 2011

This memorandum provides an update on Colorado's Child Care Contribution Credit. Specifically, it responds to questions from interested persons regarding clarification on how donations to promote child care facilities in Colorado would be treated during years in which the credit is not available because General Fund revenue does not allow appropriations to grow by six percent.

Summary

State law allows an income tax credit of up to \$100,000 to any taxpayer who makes a monetary contribution to promote child care in Colorado. The credit was established in 1999 and is authorized by state statute through tax year 2019. Its availability in tax years 2011 through 2019 is dependent upon the state having enough revenue to grow total state General Fund appropriations by six percent over the prior fiscal year's appropriations. If a taxpayer who would have been eligible to claim a credit is not allowed to claim credits because revenue falls below the six percent threshold, the taxpayer may claim the credits that were disallowed in the next income tax year in which it is estimated that revenue will be sufficient to grow appropriations by six percent over the prior year.

Based on the most recent Legislative Council Staff June 2010 revenue estimate, the credit will likely not be available for tax year 2011. The estimate indicates that appropriations growth will be below the six percent threshold for FY 2010-11.

Summary (continued)

However, for credits claimed in tax years through 2010, a taxpayer may carry forward any unused tax credits for up to five years *irregardless of whether the credit can be claimed in 2011 or afterwards*. In other words, the carry-forward provision that allows taxpayers to use credits over a five-year period is not affected by the six percent threshold.

Research compiled by the Mile High United Way shows that, for FY 2009-10, donations to promote child care in Colorado were estimated at \$38.0 million. A preliminary estimate by the Department of Revenue shows that, for the first 10 months of FY 2009-10, the revenue impact on the General Fund for the child care contribution credit was about \$12.0 million.

Colorado's Child Care Contribution Credit

Taxpayers who make monetary donations to promote child care in Colorado may claim a state income tax credit of up to 50 percent of the contribution.¹ The credit is limited to donations of \$200,000 per year, capping the annual credit at \$100,000 per taxpayer.

Credit availability. The credit was established in 1999 and is authorized by state statute through tax year 2019. However, credits can only be claimed in tax years 2011 through 2019 in years that the state has enough revenue to grow total state General Fund appropriations by six percent over the prior fiscal year's appropriations.² This determination is based on the Legislative Council Staff (LCS) December revenue forecast. If the forecast does not estimate sufficient revenue for FY 2010-11, the Colorado Department of Revenue is required to give notice on its website that the credit will not be available for tax year 2011, the tax year immediately following the December forecast.³

Based on the most recent LCS June 2010 revenue estimate, the credit will likely not be available for tax year 2011. The estimate indicates revenue cannot support appropriations growth at the six percent threshold for FY 2010-11. If a taxpayer who would have been eligible to claim the income tax credit is not allowed to claim credits in year 2011 because of the six percent threshold, the taxpayer may claim the credits that were disallowed in the next income tax year in which the LCS revenue estimate indicates that revenue will be sufficient to grow appropriations by six percent.

¹ Section 39-22-121 (1), C.R.S.

² Section 39-22-122 (6.7) (a), C.R.S.

³ Section 39-22-122 (6.7) (b), C.R.S.

Tax credits claimed prior to 2011. A taxpayer can only claim the child care contribution tax credit up to the taxpayer's tax liability (taxes owed). Any remaining unused credits may be carried forward for up to five years. The taxpayer must apply unused credits to the soonest tax year possible.

For tax credits claimed in tax years through 2010, a taxpayer may carry forward any unused tax credits for up to five years *irregardless of whether the credit is available in 2011 or afterwards*. In other words, the carry-forward provision in state law that allows unused credits to be used over a five-year period is not affected by the six percent threshold. Donations or monetary contributions used to promote child care in Colorado will not qualify for the state income tax credit if they are made after December 31, 2019. For donations made during the 2019 tax year, the five-year carry forward period applies to the five-year period after 2019 for purposes of unused credits. Thus, taxpayers who make donations in 2019 would be able to use tax credits through 2024.

Donation eligibility. Donations to promote child care in Colorado for children age 12 years and under qualify for the state income tax credit. Tax credits may be claimed if money is donated for the establishment or operation of a *licensed* child care facility or program such as a:

- child care center;
- child placement agency;
- family child care home;
- foster care home;
- homeless youth shelter;
- residential child care facility or secure residential treatment center; or
- registered child care program that provides similar services provided by a child care center.⁴

Child care organizations not licensed by the Department of Human Services must register with the Colorado Department of Revenue to receive donations that qualify for the tax credit. State income tax credits may also be claimed against money donated for a *registered*:

- grant or loan program for parents in Colorado requiring financial assistance for child care;
- training program for child care providers in Colorado;
- information dissemination program that assists parents with child care information and referral services; or
- grandfathered child care organization (these organizations may accept qualified donations for the care of children ages 13 thru 18.).

Revenue impacts. Research compiled by the Mile High United Way shows that, for FY 2009-10, donations to promote child care in Colorado were estimated at \$38.0 million. A preliminary estimate by the Department of Revenue shows that, for the first 10 months of FY 2009-10, the revenue impact on the General Fund for the child care contribution credit was about \$12.0 million.

⁴ Section 39-22-121 (2) (a), C.R.S.